

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
WASHINGTON ALARM, INC.)
)
Licensee of Industrial/Business Private Land)
Mobile Radio Station WNYM824, Seattle,)
Washington)

ORDER OF MODIFICATION

Adopted: September 18, 2007

Released: September 19, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Order of Modification*, we modify the license of Washington Alarm, Inc. ("Washington Alarm") for Station WNYM824, Seattle, Washington, by restricting operations on East Tiger Mountain, Washington to sites where the antenna height is no greater than 200 meters above mean sea level (AMSL). As explained in further detail below, we take this action pursuant to an earlier order proposing to modify Washington Alarm's license.¹

2. *Background.* Washington Alarm's license for Station WNYM824 authorizes operations on frequency pair 460/465.9375 MHz with a maximum authorized transmitter output power of two watts at any location within 121 kilometers of a center point located near the center of Seattle, Washington.² The license authorizes only mobile units, but Section 90.267(f)(1) of the Commission's Rules provides that fixed stations on this frequency pair may be licensed as mobile.³

3. On December 23, 2005, a representative of Industry Canada contacted the Seattle, Washington office of the Commission's Enforcement Bureau, stating that Station VCU869 in Saltspring Island, British Columbia, was receiving interference to its communications on frequency 460.9375 MHz. On April 11, 2006, agents from the Commission's Enforcement Bureau inspected a Washington Alarm

¹ See Washington Alarm, Inc. *Order Proposing Modification*, 22 FCC Rcd 3996 (WTB MD 2007) (*Order Proposing Modification*). The instant *Order of Modification* supercedes a prior *Order of Modification* in this proceeding that modified Washington Alarm's license on the grounds that Washington Alarm did not assert any objection to the *Order Proposing Modification*. See Washington Alarm, Inc., *Order of Modification*, 22 FCC Rcd 9305 (WTB MD 2007). It now appears, however, that Washington Alarm may not have received proper notice of the *Order Proposing Modification*. Consequently, this *Order of Modification* addresses the objections that Washington Alarm asserted in response to the prior *Order of Modification*. In the interim, Washington Alarm has been authorized to operate in accordance with its previously-authorized license terms pursuant to special temporary authority under Call Sign WQHH438.

² See license for Station WNYM824. The coordinates of the center point of the authorized service area are 47-35-59.4 N/122-19-4.5 W.

³ 47 C.F.R. § 90.267(f)(1).

base station on East Tiger Mountain transmitting on frequency 460.9375 MHz.⁴ The Commission field agents determined that the base station was operating with a transmitter output power of 6.5 watts rather than the authorized 2 watts. The power was reduced in compliance with the authorization and an omnidirectional antenna was installed. Nevertheless, Industry Canada reported on April 18, 2006 that Station VCU869 continued to suffer harmful interference from Station WNYM824.

4. Station VCU869 is entitled to protection from harmful interference created by Washington Alarm's station because Station VCU869 was coordinated with the United States in accordance with the current U.S./Canadian agreement.⁵ By contrast, Washington Alarm's license to operate with two watts transmitter output power on frequency 460.9375 MHz was granted without Canadian coordination.⁶ Consequently, on February 28, 2007 we proposed to modify the license for Station WNYM824 by adding a condition limiting any operation on frequency 460.9375 MHz to antenna sites where the antenna height AMSL is no greater than 200 meters.⁷

5. *Discussion.* As noted above, Station VCU869 was coordinated with the United States, but Station WNYM824's operations on frequency 460.9375 MHz were not coordinated with Canada. Therefore, Station WNYM824's operations on frequency pair 460/465.9375 MHz are secondary to any coordinated Canadian operations, such as those of Station VCU869, and interference to a station entitled to protection must be halted.⁸ Consequently, we conclude that it is in the public interest to modify Washington Alarm's license.

⁴ The coordinates of the East Tiger Mountain base station are 47-29-17.16 N/121-56-48.2 W. The antenna height is nearly 1,000 meters AMSL.

⁵ See USA: *Treaties and Other International Acts Series* (TIAS) 5205; CAN: *Canada Treaty Series* (CTS) 1962 No. 15. *Agreement Between the United States of America and Canada Revising the Technical Annex to the Agreement of October 24, 1962* (TIAS 5205/CTS 1962 No. 15), Effected by Exchange of Notes at Ottawa, Canada, June 16 and 24, 1965. Entered into force June 24, 1965. USA: TIAS 5833/CAN: CTS 1962 No. 15, as amended June 24, 1965 (U.S.-Canada Agreement).

⁶ The U.S.-Canada Agreement allows stations in the border area to operate at a maximum of five watts effective radiated power (ERP) without coordination. See U.S.-Canada Agreement at Arrangement A § 4(a) (indicating that coordination with Canada is only necessary for applications involving an ERP in excess of five watts). The coordinates of the center point of Station WNYM824's authorized service area are within the border area where Canadian coordination is required for stations operating with more than five watts ERP. See *id.* at § 2(a). We note that the East Tiger Mountain site is outside the border area. Even if Station WNYM824 were licensed as a fixed station at the East Tiger Mountain coordinates, however, we believe that Industry Canada would request action to alleviate the interference to Station VCU869, because the U.S.-Canada Agreement provides for special coordination of operations outside the border area that might result in harmful interference to the radio services of the other country. See U.S.-Canada Agreement at § 8.

⁷ See *Order Proposing Modification*, 22 FCC Rcd at 3998 ¶ 7. We concluded that the height reduction would resolve the interference to Station VCU869 without unduly disrupting Washington Alarm's operations.

⁸ See Terry L. Pfeiffer, *Order of Modification*, 19 FCC Rcd 24422, 24424 ¶ 5 (WTB PSCID 2004) (citing Pend Oreille County, Washington Department of Emergency Management, *Order on Reconsideration*, 16 FCC Rcd 5293, 5295 n.18 (WTB PSPWD 2001); Jan David Jubon, P.E., *Order on Reconsideration*, 16 FCC Rcd 213, 215 ¶ 7 (WTB PSPWD 2001)).

6. Washington Alarm argues that the special condition should apply only to the East Tiger Mountain site, because that is the only Washington Alarm site that has been determined to be causing interference to Station VCU869.⁹ We agree, and will modify the proposed condition accordingly.

7. Washington Alarm also requests that, instead of a specific height limitation, the license for Station WNYM824 be conditioned to require Washington Alarm to “implement a downtilt radiation pattern and/or such other measures necessary to prevent harmful interference to any protected co-channel Canadian licensees.”¹⁰ It argues that such language would accomplish the Commission’s goal of addressing the instant interference situation, while giving Washington Alarm the flexibility to address the interference by the most cost effective means.¹¹ Specifically, Washington Alarm believes that the interference can be eliminated by employing an antenna with a six degree downtilt.¹²

8. Based on the information before us, however, we do not believe that the more flexible language suggested by Washington Alarm would be as effective in resolving the interference to Station VCU869. The proposed condition imposes little if any obligation beyond that already required by Section 90.173 of the Commission’s Rules, which provides that all applicants and licensees shall cooperate in the selection and use of frequencies in order to reduce interference and make the most effective use of authorized facilities.¹³ Moreover, Washington Alarm has provided no technical study or other basis for its belief that use of a downtilt antenna at the current East Tiger Mountain site will eliminate interference to Station VCU869. Given the topographic features of the area at issue, we are not persuaded that Washington Alarm’s contemplated solution would be sufficient. We therefore conclude that it is appropriate to modify Washington Alarm’s license to impose a height restriction for operations on frequency 460.9375 MHz at East Tiger Mountain.

9. *Conclusion and Ordering Clauses.* ACCORDINGLY, IT IS ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission’s Rules, 47 C.F.R. § 1.87, that the license for Industrial/Business Pool Station WNYM824 BE MODIFIED by adding the following special condition: “Use of frequency 460.9375 MHz at East Tiger Mountain, Washington is authorized only where the antenna height above mean sea level is no greater than 200 meters.”

10. IT IS FURTHER ORDERED that the special temporary authority for Station WQHH438 SHALL TERMINATE thirty days from the release date of this *Order of Modification*.

11. IT IS FURTHER ORDERED that this *Order of Modification* SHALL BE SENT by certified mail, return receipt requested, to Washington Alarm, Inc., 1253 S. Jackson, Seattle, WA 98144, Attn: John Woodman.

⁹ See Petition for Reconsideration at 2, 8-9 (Petition).

¹⁰ Supplement to Petition for Reconsideration at 3 (Supplement); *see also* Petition at 9.

¹¹ See Petition at 9; Supplement at 3.

¹² See Petition at 9, Ex. D; Supplement at 3.

¹³ 47 C.F.R. § 90.173(b).

12. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau